COURT FEE Rs. 2 INDIA TWO RUPEES

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR.

W.P. No. 07 /2001.

PETITIONER : Ramkhelawan s/o Anant, Caste-Ahir, aged about 50 years, Occupation-Agriculture, r/o village Karaihiya-khand, P.S. Patna, Tehsil Baikunthpur, District Koria, C.G.

(PLAINTIFF)

V E R S U S

RESPONDENT : Pyarelal s/o Sukhram Yadav, Caste-Ahir, aged about 40 years, Occupation Agriculture, r/o village Karaihiya-khand, P.S. Patna, Tehsil Baikunthpur, District Koria, C.G.

P.R. No. 3325/01 Presented by Shri A.K. Pateshwary dated 17.12.01

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA.

XI-HC-22

(39)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 07/04 **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	1.8.2005 Shri A.K. Prasad, counsel for the petitioner. Shri Anil Pandey, counsel for the respondent. Heard. The petitioner has preferred this writ petition under Article 227 of the Constitution of India questioning the legality, propriety and correctness of order dated 06.12.2003 passed by learned Civil Judge Class-1, Baikunthpur, District Koriya whereby learned Civil Judge has rejected the applications filed by the petitioner under Order 6 Rule 7 & Order 13 Rule 1 of the Code of the Civil Procedure. The petitioner herein filed a civil suit against the respondent herein for declaration and permanent injunction regarding the property mentioned in Paragraph-2 of the plaint. By the application filed under Order 6 Rule 17 of the CPC the petitioner wanted to seek amendment that during pendency of civil suit the petitioner has been dispossessed, therefore, a prayer for the possession he wanted to insert in the civil suit and vide application filed under Order 13 Rule 1 of the CPC the petitioner wanted to produce original registered Will deed on record, photocopy of which was already filed along with the plaint. Learned counsel for the respondent submits that the petitioner filed the amendment application and application for taking document on record with a delay of five years, therefore, the applications were rightly rejected by the court below.	

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

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	-2-	

But, it is admitted position that, so far, even the evidence of the petitioner has not been commenced and document which the petitioner wanted to bring on record is a registered original Will deed, therefore, there was no question of doubting the genuineness of the Will and also that the petitioner wanted to insert by way of amendment the subsequent events happened after filing of the civil suit. Therefore, these applications ought to have been allowed by the court below and so far as the delay is concerned, that can be compensated in terms of the cost. Accordingly, the writ petition is allowed, order impugned is set aside, the applications filed under Order 6 Rule 7 & Order 13 Rule 1 of the Code of Civil Procedure are allowed with the cost of Rs.500/- and learned Civil Judge is directed to pass the consequential order. Cost to be paid within 15 days.

Certified copy as per rules.

Sd/-
L.C. Bhadoo
Judge

(पीछे देखिये)